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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re I.A., a Person Coming Under the
Juvenile Court Law.

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

T.W.,

Defendant and Appellant.

B214525

(Los Angeles County
Super. Ct. No. CK38884)

APPEAL from an order of the Superior Court of Los Angeles County,
Jan G. Levine, Judge. Affirmed.

Christopher R. Booth, under appointment by the Court of Appeal, for
Defendant and Appellant.

Office of the Los Angeles County Counsel, James M. Owens, Assistant County
Counsel, and Tracey F. Dodds, Principal Deputy County Counsel, for Plaintiff and
Respondent.

T.W. (father) appeals a restraining order granting father monitored visitation with his son, I.A. Father contends that portion of the order granting the Department of Children and Family Services (the Department) discretion to liberalize father's visitation after consultation with I.A.'s counsel constitutes an improper delegation of the juvenile court's authority. We reject this contention and affirm the juvenile court's order.

BACKGROUND

The family at issue consists of mother and three of her children, J.G., A.A. and I.A. T.W. is I.A.'s father.

On March 29, 2008, father was arrested following an incident of domestic violence against mother and physical abuse of A.A. On May 15, 2008, father was released from jail after he pleaded guilty to misdemeanor charges of domestic violence and cruelty to a child. In connection with the criminal case, the superior court issued a restraining order prohibiting father from having any contact with A.A.

On May 19, 2008, the Department filed a dependency petition which alleged domestic violence against mother and physical abuse of A.A. The juvenile court ordered father's visits with I.A. to be monitored and ordered father to have no contact with J.G. or A.A.

On September 3, 2008, mother and father signed waiver of rights forms and the juvenile court sustained the allegations of the dependency petition.

An information for court officer form filed February 5, 2009, indicated that on December 23, 2008, mother found father inside her home. Father became verbally abusive and made threats against mother. Mother telephoned the police but father left before the police arrived. On January 7, 2009, father went to mother's house in the early morning, locked himself inside and prevented mother from using the telephone. When the babysitter arrived at 7:00 a.m., father permitted mother, J.G. and A.A. to leave but refused to release I.A. Mother called the police and father was arrested. Father telephoned the children's social worker (CSW) assigned to the case from jail on January 8, 2009, and indicated he had been living at mother's home in violation of the restraining order because he had nowhere to go. The CSW assisted mother and the children in

moving into a domestic violence shelter. The Department reported father had belongings in mother's home and keys to the property and the present restraining order only prohibited father from having contact with A.A.

On February 5, 2009, the juvenile court issued a temporary restraining order directing father to move from mother's home and to stay away from the home, mother, J.G. and A.A. The Department recommended against terminating dependency jurisdiction based on father's violations of the previous restraining order.

On March 3, 2009, the juvenile court issued a three-year restraining order which granted father monitored visitation with I.A. and granted the Department authority to liberalize father's visitation after consultation with I.A.'s counsel.

CONTENTION

Father contends the juvenile court acted in excess of its authority and violated the separation of powers doctrine by delegating to I.A.'s counsel veto power over liberalized visitation.

DISCUSSION

The determination as to whether visitation will occur is exclusively within the juvenile court's authority. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1008-1009; *In re Jennifer G.* (1990) 221 Cal.App.3d 752, 756-757.) Thus, the juvenile court cannot delegate to any third party unlimited discretion to determine whether visitation is to occur. (*In re M.R.* (2005) 132 Cal.App.4th 269, 274 [improper delegation to legal guardian]; *In re S.H.* (2003) 111 Cal.App.4th 310, 319 [order improperly granted the children the right to refuse to visit]; *In re Julie M.* (1999) 69 Cal.App.4th 41, 46 [same]; *In re Donovan J.* (1997) 58 Cal.App.4th 1474, 1477-1478 [improper delegation to children's therapist].)

However, “[o]nly when the court delegates the discretion to determine whether any visitation will occur does the court improperly delegate its authority and violate the separation of powers doctrine. [Citations.]” (*In re Christopher H.*, *supra*, 50 Cal.App.4th at p. 1009.) Thus, a visitation order validly may delegate to a therapist limited discretion to determine when court ordered visitation should begin. (*In re Chantal S.* (1996) 13 Cal.4th 196, 213.) Also, the juvenile court may delegate to a social agency the responsibility to manage details of the visitation such as the time, place and manner of the visits. (*In re Moriah T.* (1994) 23 Cal.App.4th 1367, 1374.)

Here, the juvenile court granted the Department discretion to liberalize father’s visitation “after it consulted with” I.A.’s counsel. This order did not give I.A.’s counsel veto power over liberalization of father’s visitation or delegate the final decision as to whether visitation would be liberalized. Thus, the restraining order did not improperly delegate the juvenile court’s authority or violate the doctrine of separation of powers.

Additionally, because the juvenile court has not terminated jurisdiction in this case, the matter will be subject to further periodic review. Father may bring any improper restriction of his visitation to the attention of the juvenile court in a petition to modify the order. (Welf. & Inst. Code, § 388; *In re Christopher H.*, *supra*, 50 Cal.App.4th at p. 1010; *In re Moriah T.*, *supra*, 23 Cal.App.4th at p. 1377.)

In sum, finding no abuse of discretion, denial of due process, violation of the separation of powers doctrine or other error, we affirm the order of the juvenile court.

DISPOSITION

The order of the juvenile court is affirmed.

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KLEIN, P. J.

We concur:

CROSKEY, J.

ALDRICH, J.